

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARIO SANCHEZ,

Plaintiff,

v.

JOHNSON, *et al.*,

Defendants.

Case No. 2:22-cv-00537-JDP (PC)

ORDER

Plaintiff is a state prisoner proceeding pro se and *in forma pauperis* in this civil rights action filed under 42 U.S.C. § 1983. Before me is plaintiff's motion to compel. ECF No. 36. Defendants oppose the motion, arguing that plaintiff failed to comply with requirements set forth in the discovery and scheduling order and the Federal Rules of Civil Procedure. ECF No. 37. I will deny plaintiff's motion but will extend discovery deadlines and grant plaintiff additional time to serve his discovery request.

Background

Plaintiff initiated this action on March 24, 2022, and proceeds against correctional officers Johnson and Smith on an Eighth Amendment deliberate indifference claim. ECF No. 1. Plaintiff alleges that defendants told him to kill himself if he was suicidal and then, in violation of policy,

1 allowed him to keep his shoelaces, which he used to hang himself. ECF No. 1. Plaintiff also
2 alleges that defendants denied him water and a restroom break during a five-hour transport
3 between institutions. *Id.*

4 Defendants filed an answer in October 2022, and I issued a scheduling order in January
5 2023. ECF Nos. 21 & 30. All requests for discovery were to be served on or before May 26,
6 2023, and the deadline to complete all discovery, including filing motions to compel, was June
7 30, 2023. ECF No. 30 at 4-5. Any request for an extension of a deadline set forth in the
8 scheduling order was to be filed before the relevant deadline and would be granted only upon a
9 showing of good cause. *Id.* at 5. The parties were informed that any discovery disputes were to
10 be addressed pursuant to the procedures set forth in the scheduling order and the Federal Rules of
11 Civil Procedure, including the requirement that the parties meet and confer prior to the filing of
12 any motion to compel. *Id.* at 1-2.

13 On April 12, 2023, plaintiff moved for an extension of time “for schedule and preparation
14 of for discovery [*sic*].” ECF No. 31. His motion reads, in its entirety, “Your Honor I am
15 requesting a time extension to schedule and prepare for discovery in this case. In the process of
16 contacting charecter [*sic*] witnesses also.” Because plaintiff failed to identify the specific
17 deadline he sought to extend, I denied his motion without prejudice. ECF No. 33. I reminded
18 him that any future request for an extension must identify the deadline at issue and explain why
19 additional time is necessary. *Id.* at 1, fn.1. Plaintiff did not file another motion seeking to extend
20 a deadline.

21 Discussion

22 Plaintiff filed the instant motion on June 7, 2023.¹ ECF No. 36. Although titled “motion
23 to compel discovery,” the filing is in fact a request for production of documents, a request for
24 admissions, a statement of willingness to testify by an inmate who claims to be “an expert witness
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27 ¹ The court received plaintiff’s filing on June 7, 2023, but notes that plaintiff dated the
28 document May 4, 2023. *See* ECF No. 36 at 1-2.

1 about automobiles and vans,” a statement of willingness to testify as a character witness by
2 plaintiff’s cellmate of two years, and a list of plaintiff’s potential witnesses.

3 Pursuant to the scheduling order, plaintiff’s motion is timely, having been filed before the
4 June 30, 2023 deadline for discovery completion. But it appears plaintiff did not serve his
5 discovery requests on defendants before the May 26, 2023 deadline. *See* ECF No. 37-1 at 2. In
6 light of plaintiff’s pro se status and the timing of his filing, I will allow plaintiff additional time to
7 serve discovery on defendants. Plaintiff is warned that filing discovery requests with the court is
8 improper; he must serve discovery requests on defendants. I will also sua sponte extend the
9 discovery deadlines.

10 Accordingly, it is hereby ORDERED that:

- 11 1. Plaintiff’s motion to compel, ECF No. 36, is denied without prejudice.
- 12 2. The deadline for the completion of all discovery, including filing all motions to compel
13 discovery, is October 13, 2023.
- 14 3. All requests for discovery pursuant to Fed. R. Civ. P. 31, 33, 34, or 36 shall be served
15 no later than September 8, 2023.
- 16 4. If plaintiff seeks leave to amend the complaint, he must file any motion to amend no
17 later than October 13, 2023.
- 18 5. Dispositive motions shall be filed on or before January 12, 2024.

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20 IT IS SO ORDERED.

21 Dated: September 18, 2023

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23 JEREMY D. PETERSON
24 UNITED STATES MAGISTRATE JUDGE
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